IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18669 of 2006
with
SPECIAL CIVIL APPLICATION Nos. 18670 & 18671 of 2006

For Approval and Signature:

HON'BLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT.JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ? No

2 To be referred to the Reporter or not ? No

3 Whether their Lordships wish to see the fair copy of the judgment ? No

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? No

5 Whether it is to be circulated to the civil judge ? No

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KAZI FATIMABEN HANUBHAI & 2 - Petitioner(s)
Versus
LAND ACQUISITION OFFICER PATAN & 1 - Respondent(s)

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Appearance :
MR VL THAKKAR for Petitioners
MR DIPEN DESAI, AGP for Respondents

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT.JUSTICE ABHILASHA KUMARI

Date : 05/09/2006

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. Rule is issued in each petition. Mr.Dipen Desai, learned Assistant Government Pleader, waives service of notice on behalf of the respondents in each petition. Having regard to the facts of the case, the instant petitions are taken up for final disposal today.

2. By filing these petitions under Article 226 of the Constitution, the petitioners have prayed to issue a Writ of Mandamus or any other appropriate Writ or order directing the respondents to pay additional compensation to the petitioners at the rate of Rs.13.65 ps. per sq.mt. with interest in terms of the judgment and award dated August 9, 2000, rendered by the learned Extra Assistant Judge, Mehsana, in Land Acquisition Reference Case Nos.1325 to 1342 of 1996.

3. Several parcels of lands including the lands of the petitioners bearing Survey No.225 admeasuring 5 Hectare, 89 Are and 83 sq.mts.

were acquired for public purpose of construction of Rajpura Branch Canal under Narmada Yojana pursuant to publication of Notification issued under Section 4 of the Land Acquisition Act, 1894 (“the Act” for short), which was published in the official gazette on July 27, 1995. The Special Land Acquisition Officer made his award under Section 11 of the Act on January 27, 1997. The record does not show that the claimants who were not satisfied with the offer of compensation made by the Special Land Acquisition Officer had sought references. However, pursuant to earlier Notification issued under Section 4(1) of the Act which was published in the official gazette on February 27, 1992, lands from this very village were acquired for Narmada Yojana wherein the Special Land Acquisition Officer had offered compensation to the claimants at the rate of Rs.1.35 ps. per sq.mt. for irrigated lands and Rs.0.95 ps. per sq.mt. for non-irrigated lands, but the Reference

Court by judgment and award dated August 9, 2000, rendered in Land Acquisition Reference Nos.1325/96 to 1342/96, awarded additional compensation at the rate of Rs.13.65 ps. per sq.mt. for irrigated lands and Rs.9.10 ps. per sq.mt. for non-irrigated lands. The petitioners, through their lawyer, sent notice dated May 7, 2006, and demanded additional amount of compensation from the Special Land Acquisition Officer, i.e. the respondent No.2 on the basis of judgment and award dated August 8, 2000, rendered by the learned Extra Assistant Judge, Mehsana, in Land Acquisition Reference Nos.1325/96 to 1342/96. The said request has been rejected by the respondent No.2 vide communication dated June 14, 2006, holding that the application submitted by the petitioners under Section 28A of the Act is time barred. The case of the petitioners is that other claimants from this very village have been awarded additional amount of compensation in Land Acquisition Reference Nos.1325 to 1342

of 1996 and therefore, appropriate direction should be issued to the respondent No.2 to pay additional compensation with interest to the petitioners on the basis of said judgment. Under the circumstances, the petitioners have filed the instant petitions and claimed relief to which reference is made earlier.

4. This Court has heard Mr.V.L.Thakkar, learned counsel for the petitioners and considered the documents forming part of the petition. From the record of the case, it is evident that the Special Land Acquisition Officer made his award under Section 11 of the Act on January 27, 1997. The record does not indicate that the petitioners or for that matter any of the claimants made any application under Section 18 of the Act requiring the Special Land Acquisition Officer to refer the matter to the Court for the purpose of determination of just amount of compensation payable to them. The record

further shows that previously the lands from this very village were acquired for public purpose of Narmada Yojana pursuant to publication of Notification issued under Section 4(1) of the Act in the official gazette on February 27, 1992. Therein, the Special Land Acquisition Officer had offered compensation to the claimants at the rate of Rs.1.35 ps. per sq.mt. for irrigated lands and Rs.0.90 ps. per sq.mt. for non-irrigated lands but the Reference Court by judgment and award dated August 9, 2000, awarded additional compensation to the claimants of those cases at the rate of Rs.13.65 ps. per sq.mt. for irrigated lands and Rs.9.10 ps. per sq.mt. for non-irrigated lands, in Land Acquisition Reference Nos.1325/96 to 1342/96. Section 28A allows re-determination of the amount of compensation on the basis of the award of the court only if the persons interested in all the other land covered by the same Notification under Section 4 of the Act were also aggrieved by the award of the

Collector and had not made application to the Collector under Section 18 of the Act. Here in this case, lands of the petitioners were not acquired by the same Notification under Section 4 of the Act which was subject matter of the Land Acquisition Reference Nos.1325/96 to 1342/96 decided on August 9, 2000. Therefore, the Special Land Acquisition Officer should have rejected the prayer of the petitioners to re-determine the amount of compensation on the ground that lands of the petitioners were not acquired by the same notification which was subject matter of consideration in Land Acquisition Reference Nos.1325/96 to 1342/96 and not on the ground that the application submitted by the petitioners through their lawyer was time-barred. Therefore, this Court is of the firm opinion that no ground is made out by the learned counsel for the petitioners to interfere in the instant petitions and the petitions, which lack merit, deserve dismissal.

5. For the foregoing reasons, the petitions fail and are dismissed. Rule is discharged in each petition. There shall be no orders as to costs.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

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